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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,757	06/18/2001	David Guedalia	NMS03-05	1733

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EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/883,757	GUEDALIA ET AL.	
	Examiner	Art Unit	
	Gerald Gauthier	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,11-14 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,11-14 and 20-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claim(s) 1-4, 11-13 and 20-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Augusteijn et al. (US 6,292,883 B1) in view of Saylor et al. (US 6,501,832 B1).

Regarding **claim(s) 1 and 20**, Augusteijn discloses an interactive voice response system (column 1, lines 6-9) comprising:

a compiler operative to compile documents retrieved by a fetcher into compiled document data in executable form (column 7, lines 1-44) [The converter 132 of the processor is used to convert virtual machine instructions fetched from the instruction memory by the fetching means 134 into native instructions];

a cache which stores the compiled documents data (column 7, lines 1-44) [The processor comprises of an instruction cache 116 for storing native instructions before executing the instructions]; and

a execution thread that executes compiled document data retrieved from the cache by the fetcher (column 7, lines 1-44) [The pre-processor 130 comprises a feeding means 136 for feeding native instructions for execution].

Augusteijn discloses storing the compiled document prior to execution but fails to disclose receipt of audio input for a given user requesting a text-based document.

However, Saylor teaches a receipt of audio input from a given user requesting a text-based document (column 4, lines 16-28) [The files are transferred to the Vpage

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server and stored on a database. When the user requests a file with a text-based the files pass through a text-to-speech engine].

Therefore, It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the processor of Augusteijn using the XML-based voice content interpreter as taught by Saylor.

This modification of the invention enables the system to receive an audio input from the user so that the user would retrieve a text-based through a text-to-speech engine.

Regarding **claim(s) 2**, Saylor teaches a Storage Device, which stores state information, related to execution of the compiled documents (column 20, lines 61-67).

Regarding **claim(s) 3**, Saylor teaches a backup VoiceXML Interpreter communicating with the Storage Device, the backup interpreter providing a response to a user in the event of a failure associated with a primary voice response system (column 18, lines 59-65).

Regarding **claim(s) 4**, Saylor teaches wherein the Storage Device comprises a memory database external to the backup VoiceXML Interpreter (column 20, lines 61-67).

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Regarding **claim(s) 11**, Augusteijn and Saylor disclose all the limitations of **claim(s) 11** as stated in **claim 1**'s rejection and furthermore Saylor teaches retrieving documents encoded according to VoiceXML (column 21, lines 20-29) [The XML-based voice content interpreter is provided for compiling XML-based voice content VPages files to be executed such as VoiceXML].

Regarding **claim(s) 12**, Augusteijn discloses storing state information related to execution of the compiled document data (column 7, lines 1-44).

Regarding **claim(s) 13**, Saylor teaches providing a backup VoiceXML Interpreter that utilizes the stored state information to support continued service in the event of failure (column 20, lines 61-67).

Regarding **claim(s) 21**, Augusteijn discloses a compiler that converts the text-based document into executable speech code for storage in the cache prior to receipt of the incoming request (column 7, lines 1-44).

Regarding **claim(s) 22**, Augusteijn discloses wherein the fetcher initiates communication with a remote server to retrieve a text-based document associated with the requested information if corresponding executable code is not stored in the cache (column 7, lines 1-44).

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Regarding **claim(s) 23**, Augusteijn discloses a compiler that converts the text-based document into executable speech code for storage in the cache (column 7, lines 1-44).

Regarding **claim(s) 24**, Augusteijn discloses wherein executable code stored in the cache is concurrently by multiple execution threads to provide multiple response to multiple users (column 7, lines 1-44).

Regarding **claim(s) 25**, Augusteijn discloses a storage device to store state information related to the executable code executed by the execution thread to satisfy the request for audio information associated with the incoming request (column 7, lines 1-44).

Regarding **claim(s) 26**, Augusteijn discloses wherein executable code retrieved from the cache is associated with a corresponding viewable text-based document available on the World Wide Web (column 7, lines 1-44).

Regarding **claim(s) 27**, Augusteijn discloses wherein executable thread receives the incoming call from a switchboard (column 7, lines 1-44).

Regarding **claim(s) 28**, Saylor teaches a VoiceXML interpreter (66 on FIG. 3).

Regarding **claim(s) 29**, Saylor teaches a database to store state information associated with executable code being executed by the execution thread, the state information accessible by a backup VoiceXML interpreter to provide service in the event of a failure (column 28, lines 25-29).

Regarding **claim(s) 30**, Augusteijn and Saylor disclose all the limitations of **claim(s) 30** as stated in **claim(s) 1**'s rejection and furthermore Saylor teaches processing an incoming call (column 28, line 1 "incoming call") based on an audio input (column 28, line 2 "a voice browser") from a given user (column 28, lines 1-26) [The call center initiates a different thread for each incoming call based on a voice browser and a text to speech module for the user request]; and

identifying a request for audio information (column 28, line 1 "incoming call") associated with a text-based document (column 28, lines 1-26) [The call center initiates a different thread for each incoming call based on a voice browser and a text to speech module for the user request].

6. **Claim(s) 5, 7 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Augusteijn in view of Saylor as applied to **claim(s) 1** above, and further in view of Paleiov et al (US 6,560,320 B1).

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Regarding **claim(s) 5 and 14**, Augusteijn and Saylor disclose all the limitations of **claim(s) 5 and 14** as stated in **claim 1**'s rejection above and furthermore Saylor fails to disclose executing the document in the event of failure.

However, Paleiov teaches executing the document in the event of failure (column 5, lines 62-65) [In case of failure the IVR responds to the user with a sequence of voice prompts].

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to use the IVR responding to the user with a sequence of prompts in case of failure of Paleiov in the IVR XML-based voice content interpreter of Saylor.

The modification of the invention would offer the capability of executing a sequence of voice prompts such as the sequence of voice prompts would improve methods for automated interactive telephone applications.

Regarding **claim(s) 7**, Saylor teaches wherein the Storage Device is a memory database external to the backup VoiceXML Interpreter (column 20, lines 61-67).

Response to Arguments

7. Applicant's arguments with respect to **claim(s) 1-5, 7, 11-14 and 20-30** have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GERALD GAUTHIER
PATENT EXAMINER

G.G.
April 10, 2005


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